

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

JAMES D. BUCHANAN,
Plaintiff,

vs.

No. 18-CV-171-RAW

TURN KEY HEALTH CLINICS,
LLC, et al,
Defendant.

VIDEO DEPOSITION OF
KATIE MCCULLAR

DATE: FEBRUARY 19, 2019

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1 professors at LPN school?

2 A It--

3 Q Who are you receiving your training
4 from?

5 A Do you want their names or their
6 credentials?

7 Q I meant credentials and what kind of
8 person is giving this training?

9 A Generally -- generally at least a
10 master's -- my -- one of my instructors who's a
11 nurse practitioner.

12 Q An RN is above you?

13 A Correct.

14 Q A higher level of training. You're
15 going to have that soon. The nurse practitioner
16 is a level even above that?

17 A Correct.

18 Q And that's what Lela Goatley is?

19 A Yes.

20 Q And also your dad?

21 A Yes.

22 Q How is your training in medical care
23 compared to the jailer's training, the detention
24 officers at the Muskogee County Jail?

25 MR. SMOLEN: Objection, speculation.

1 THE WITNESS: Oh, I -- it's -- you
2 really can't even compare it. I mean, they --
3 they don't have probably any medical care and --

4 Q (By Mr. Miller) Meaning they don't have
5 any training?

6 A Training, yes.

7 Q You do, correct?

8 A Yes, correct.

9 Q So you have significantly more?

10 A Oh, yes.

11 Q Without a doubt in your mind, do you
12 have more training than any of the employees of
13 the jail --

14 MR. SMOLEN: Object to the form.

15 Q (By Mr. Miller) -- in medical care?

16 A Correct.

17 Q You would have less than RN or a LPN or
18 a nurse practitioner on the floor than anyone
19 who actually worked directly for the jail?

20 A Correct.

21 Q You were never a actual jail employee,
22 correct?

23 MR. SMOLEN: Object to the form.

24 THE WITNESS: Correct.

25 Q (By Mr. Miller) Always worked for Turn

1 from Dr. Cooper, correct?

2 A Either the 3rd or the 4th, yes.

3 Q Okay. Is it possible that he was on a
4 -- on a sick call page and then was seen for the
5 medical intake on that day, so thus he was seen
6 for that sick call?

7 MR. SMOLEN: Objection to the form.

8 THE WITNESS: It's possible.

9 Q (By Mr. Miller) Okay. And your
10 testimony is still that you believe the medical
11 intake was likely done on the 4th?

12 MR. SMOLEN: Object to the form.

13 THE WITNESS: I believe, yes.

14 Q (By Mr. Miller) The same day he was on
15 the sick call for one -- for that day?

16 A I believe, yes.

17 Q Okay. I want to be a little clearer
18 because I don't think it ever really quite came
19 out exactly. If you can go to the document
20 showing the Medical Administration Record, all
21 of the -- all of the pages that you signed -- or
22 that were signed. It's DDR 1, 007. Okay. I
23 want you to tell me precisely -- because I think
24 you started this and it never quite finished --
25 which of these are your initials?

1 A November 6th, 7th.

2 Q Okay. In the morning or a.m.?

3 A Yes, the 11th and the 14th.

4 Q Okay.

5 A All a.m.

6 Q So the 6th and the 7th would say "KS"?

7 A Yes.

8 Q And the 11th and the 14th, as far as I
9 could tell, say "KM"?

10 A Yes.

11 Q Those are -- those four are your
12 initials?

13 MR. YOUNG: What about the 10th?
14 Can you make that out?

15 THE WITNESS: The 10th? I'm -- I'm
16 not sure about them. It could be me but I'm not
17 sure.

18 Q (By Mr. Miller) Okay. So you're not
19 sure about the 10th. You believe that the 12th
20 in the morning is not yours?

21 A The 12th in the morning is not mine.

22 Q Okay. And also the 8th and the 9th?

23 A Correct.

24 Q And you're just not sure on the 10th?

25 A Correct.

1 Q And none of them in p.m. are yours,
2 correct?

3 A Correct.

4 Q All right. When you were an LPN on any
5 given day shift, were you usually the only LPN
6 there?

7 A Usually.

8 Q Did you have any contact with Lela
9 Goatley in particular?

10 A Yes.

11 Q What would she do when she came to the
12 jail?

13 A She would see patients that were on --
14 were on the provider list.

15 Q Okay. So basically the list had to be
16 provided to her who would look at it and then
17 she would look at those particular patients?

18 A Correct. Generally, the nurses would
19 triage them and then -- you know, who needed to
20 be seen -- and then she would kind of look over
21 it to make sure there was not somebody that, you
22 know, needed to be on that we had missed.

23 Q Was there a reason why Lela Goatley
24 versus Dr. Cooper would see a patient?

25 A Lela Goatley was in person, and some

1 MR. SMOLEN: Object to the form.

2 Q (By Mr. Miller) -- in order to write
3 that down?

4 A Yes.

5 Q Okay. Now you went to Mr. Buchanan's
6 cell to provide him the medication all of these
7 days?

8 MR. SMOLEN: Object to the form.

9 THE WITNESS: The -- the cell block,
10 a/k the pod.

11 Q (By Mr. Miller) Okay. So you went to
12 his pod on the 6th, the 7th, maybe the 10th, the
13 11th, and then again on the 14th?

14 A Correct.

15 MR. SMOLEN: Object to the form.

16 Q (By Mr. Miller) So that's at least
17 four, maybe five times?

18 A Correct.

19 Q Until the final time -- and we've
20 discussed that at length -- do you have any
21 memory at all of what happened during those
22 encounters with Mr. Buchanan?

23 A No, I do not.

24 Q If someone had said, I'm paralyzed, I
25 can't walk, is that something you hear every

1 day?

2 MR. SMOLEN: Objection to the form.

3 THE WITNESS: No.

4 MR. SMOLEN: Relevance, speculation.

5 MR. MILLER: Object to the form is
6 the appropriate objection.

7 MR. SMOLEN: Object to the form,
8 relevance and speculation.

9 MR. MILLER: Okay.

10 Q (By Mr. Miller) You have no memory of
11 him ever saying to you at any time before
12 November 14th in the morning that he could not
13 walk; is that correct?

14 A Correct.

15 MR. SMOLEN: Objection, speculation.
16 She's testified that she doesn't have any
17 memory.

18 Q (By Mr. Miller) Do you have any memory
19 at all of him being unable to walk, meaning
20 seeing that he was physically unable to move --

21 MR. SMOLEN: Objection.

22 Q (By Mr. Miller) -- at any time prior
23 to the 14th in the morning?

24 THE WITNESS: I have no memory.

25 MR. SMOLEN: Objection, asked and

1 answered.

2 Q (By Mr. Miller) You worked there for a
3 few months, correct?

4 A Correct.

5 Q Do you ever remember anyone else who
6 couldn't walk or who lost the ability to work
7 during the time period that you were there?

8 A No.

9 Q Is that an unusual circumstance?

10 A Yes.

11 Q Do you think that's something that would
12 trigger your memory?

13 A Yes.

14 Q And, in fact, it did trigger your memory
15 on the morning of the 14th when you specifically
16 remember him saying that to you?

17 A Yes.

18 MR. SMOLEN: Objection to the form.
19 There's documentation of it.

20 Q (By Mr. Miller) Do you recall anyone
21 else coming -- any other nurses or jailers
22 before the morning of the 14th and saying
23 anything about Mr. Buchanan can't walk,
24 Mr. Buchanan is paralyzed?

25 A Not before the morning of the 14th, no.

1 Q Okay. How did -- I think we kind of
2 glossed over this. What did happen on the
3 morning of the 14th that got you to go to that
4 cell?

5 A Somebody -- one of the jailers called me
6 and -- with a walkie talkie to pod saying that
7 there was an inmate complaining, and that's --
8 that's how I was called to the pod.

9 Q Okay. Do you know who that person was?

10 A I have no clue.

11 Q Someone on a walkie talkie?

12 A Yes, I imagine it was the tower guard,
13 but that's just speculation.

14 Q Okay. Do you know whether it was a male
15 or a female?

16 A I do not know. I do not remember.

17 Q Mr. Buchanan, in his deposition,
18 testified that he was seen by a -- this is not
19 verbatim -- but a large woman guard with short
20 black hair, saw him on the morning of the 14th,
21 and that she left, and that about 20 minutes
22 later returned, and then that lady got the
23 nurse. Do you have any idea who this woman is?

24 A I have no clue.

25 Q Does that description that I just

1 provided, a large woman guard with short black
2 hair, does that help you in any way think about
3 who this might be?

4 A No.

5 Q You just remember hearing a voice on a
6 walkie talkie saying he was complaining and that
7 you then went to the -- went to the cell block?

8 A Yes.

9 Q Okay. When you say cell block, I'm
10 trying to picture this. Is he in a cell by
11 himself or where is he when you go and see him
12 on the 14th?

13 A Inside the pod, there's a bunch of
14 surrounding cells. There's a common room like
15 the -- just the common area inside the pod. He
16 was not in a cell. He was just inside the pod,
17 like another common area.

18 Q Okay. Are there other people around?

19 A I don't remember.

20 Q Okay. Does he sleep in the common area
21 or does he sleep in a cell?

22 A I don't know.

23 Q Okay. Was he in a bed?

24 A No.

25 Q Was he standing up?

1 A No.

2 Q Was he sitting down?

3 A I believe he was sitting down, but I
4 don't want to mix up my memory with what I've
5 read in the records.

6 Q Okay. This -- inmates have beds,
7 correct, somewhere they sleep?

8 A Correct, yes.

9 Q And he had got in somehow from that bed
10 to wherever he was, right?

11 MR. SMOLEN: Object to the form.

12 THE WITNESS: I would imagine, yes.

13 Q (By Mr. Miller) Okay. Could -- so
14 somehow he got there, right, to where he --

15 A Somehow.

16 Q To where you managed to encounter him?

17 A I would imagine, yes.

18 Q Now and, again, I think we glossed over
19 this a little bit. If I recall your testimony,
20 you said that he was not flaccid. What do you
21 mean by that?

22 A Exhibiting --

23 Q That is the term she used, so there's no
24 need for that from opposing counsel.

25 A Muscle tone, not able to -- able to sit

1 without falling or, you know.

2 Q Okay. Meaning he was able to keep
3 himself upright?

4 A Yes.

5 Q In your appearance?

6 A Yes.

7 Q And you also said that he had muscle
8 tone?

9 MR. SMOLEN: Object to the form.

10 THE WITNESS: Yes.

11 Q (By Mr. Miller) What does that mean?

12 A He appeared to, as in, you know, if
13 you're sitting and you have your legs like this,
14 they're not splayed out. They're able to
15 maintain a position like a 90-degree angle.

16 Q Okay. So it appeared to you based on
17 that that he did have control of his legs?

18 A It appeared to me --

19 MR. SMOLEN: Object to the form.

20 THE WITNESS: -- at that time, yes.

21 Q (By Mr. Miller) Okay. At least enough
22 control to be able to maintain muscle tone and
23 not be flaccid?

24 A Yes.

25 MR. SMOLEN: Object to the form.

1 Q (By Mr. Miller) Did he flat out tell
2 you -- and again this is in the records -- I --
3 I can't move, I cannot move my legs?

4 A I remember him complaining of lower
5 extremity pain and -- but I do not remember him
6 saying I cannot walk. I remember there being an
7 issue with lower extremity and I remember, you
8 know, what I documented it -- documented, but I
9 don't want to get the two confused.

10 Q Sure.

11 A So specifically I remember him day, him
12 complaining of the pain.

13 Q Okay. Well, according to your records
14 --

15 A Yes.

16 Q -- you say that he was complaining of
17 worsening pain and inability to move his lower
18 extremities. You also say that he was sitting
19 at the table with his head down. So according
20 to this, he's not in a bed, right? He's somehow
21 gotten to a table?

22 A Correct.

23 Q Meaning he's not --

24 MR. SMOLEN: Object to the form.

25 Q (By Mr. Miller) -- paralyzed, correct?

1 MR. SMOLEN: Object to the form.

2 THE WITNESS: Correct.

3 Q (By Mr. Miller) Unless somebody picked
4 him up and placed him there?

5 A Right.

6 MR. MILLER: Are you testifying or
7 is the witness testifying?

8 MR. SMOLEN: I think she is.

9 MR. MILLER: Well, you're trying to
10 so --

11 MR. SMOLEN: Why would I try to
12 coach your witness?

13 MR. MILLER: Okay. She's not --
14 she's not my witness.

15 MR. SMOLEN: Okay. What's your
16 point?

17 MR. MILLER: We don't get along very
18 well. I'm usually pretty easy going, but
19 Mr. Smolen and I have some difficulties. Okay.

20 Q (By Mr. Miller) Did you see any signs
21 that somebody had picked him up and placed him
22 there?

23 A I did not see any signs of that.

24 Q Okay. Do you know what a cervical
25 epidural abscess is?

1 A Generally speaking.

2 Q What is a cervical epidural abscess?

3 A It is an abscess on your cervical spine,
4 and that's about as much as I know about it.

5 Q Okay. Is that something that in the
6 daily complaints that you see from jail -- from
7 inmates at the jail, is that something that
8 comes up very often?

9 A No.

10 Q Do you recall at any point in your
11 career as a LPN, other than perhaps this
12 situation, having knowing anything about
13 cervical epidural abscess?

14 A No.

15 Q Did you know as of the morning of the
16 14th, that he had a cervical epidural abscess?

17 A No.

18 Q Did he say, Hey, I might have a cervical
19 epidural abscess?

20 A No.

21 Q Okay. Is that something that is within
22 your training or experience to diagnose?

23 A No.

24 Q Is that why you called Dr. Cooper?

25 A Yes.

1 Q -- that there was any kind of conscious
2 decision --

3 A No.

4 Q -- that, you know -- is it possible that
5 you were going back and forth --

6 A No.

7 Q -- between "KM" and "KS" for awhile?

8 A Yes.

9 Q You do not believe this was an emergency
10 situation as of the time that you contacted Dr.
11 Cooper on the morning of the 14th, correct?

12 A Correct.

13 Q And you have more medical training than
14 any of the jailers, right?

15 A Correct.

16 MR. SMOLEN: Object to the form.

17 Q (By Mr. Miller) Would you expect that
18 they would think it was an emergency situation
19 --

20 MR. SMOLEN: Object to form.

21 Q (By Mr. Miller) -- if you didn't?

22 MR. SMOLEN: Speculation.

23 THE WITNESS: I would imagine that,
24 but I cannot speak for them.

25 Q (By Mr. Miller) Sure. Jailers have to

1 rely on the medical staff to some degree --

2 MR. SMOLEN: Objection.

3 Q (By Mr. Miller) -- in terms of
4 determining what the medical situation is with
5 the inmates, correct?

6 MR. SMOLEN: Object to the form.

7 THE WITNESS: Correct.

8 Q (By Mr. Miller) That's why you're
9 there?

10 A Correct.

11 MR. SMOLEN: Inconsistent with the
12 policy.

13 MR. MILLER: That's not an
14 objection.

15 MR. SMOLEN: I'm just making a
16 notation in the record.

17 MR. MILLER: Not an objection.

18 Q (By Mr. Miller) Your standing orders,
19 what kind of conditions do they cover?

20 A Minor ailments, something that's easy
21 for a nurse to -- to -- to use a piece of paper
22 to treat somebody, a minor ailment.

23 Q Is a cervical epidural abscess one of
24 those?

25 A No.

1 Q You would agree that, according to the
2 records we've received, that we've looked over,
3 as of the 11th, he was already on the list,
4 Buchanan, to be seen by Dr. Cooper on the 15th,
5 correct?

6 A Correct.

7 Q So when you saw him on the 14th and put
8 him on the list to be seen by Dr. Cooper on the
9 15th, you were just kind of reiterating
10 something that was already scheduled, correct?

11 MR. SMOLEN: Objection, leading.

12 Q (By Mr. Miller) Is that correct?

13 A I -- I -- I don't remember that but,
14 yes.

15 Q Okay. Well, he was already going to be
16 seen?

17 A Yes, yeah, that's where I was going with
18 that.

19 Q Plaintiff's Exhibit 7, is that something
20 that you would have had access to?

21 A Yes.

22 Q This wasn't clear to me. On Plaintiff's
23 Exhibit 7, there's a line that's not blacked out
24 and you see very clearly, James Buchanan,
25 decreased range of motion; do you see that line?

1 Q That's -- that in and of itself, is that
2 something that --

3 A No, no, no.

4 Q -- suggests an emergency to you?

5 A No.

6 Q How about the heart rate of 116 in and
7 of itself?

8 A No.

9 Q Does that suggest an emergency to you?

10 A No.

11 Q How about the oxygen at 84 to 90
12 percent?

13 A Those are not extremely reliable
14 depending on the temperature of the person's
15 hands, the fit of the pulse ox. But, typically,
16 no, if they were not having any other dyspnea,
17 cyanosis, anything like that.

18 Q Okay. So even the vitals that were
19 taken that night or that evening after you had
20 left, do any of them in and of themselves
21 suggest an emergency to you?

22 A No.

23 MR. SMOLEN: Objection to the form.

24 Q (By Mr. Miller) You didn't believe it
25 was an emergency when you saw him, correct?

1 A Correct.

2 Q Is it possible that an emergency can
3 develop after you see him but before Ms. Kotas
4 sees him?

5 MR. SMOLEN: Objection to the form,
6 speculation.

7 THE WITNESS: Yes.

8 Q (By Mr. Miller) In temporal, you see
9 him, she sees him later, right?

10 A Yes.

11 Q Something could develop in between?

12 A Yes.

13 MR. SMOLEN: Same objection.

14 Q (By Mr. Miller) Did you ever -- out of
15 all the times you had administered medication
16 for him, did you ever think there was an
17 emergency before?

18 A No.

19 Q If there was an emergency, what would
20 you have done?

21 MR. SMOLEN: Objection to the form,
22 speculation.

23 THE WITNESS: If there was an
24 emergency, I would have -- if he was
25 experiencing, you know, something that --

1 MR. SMOLEN: What kind of emergency
2 are we talking about?

3 MR. MILLER: Are you objecting to
4 the form?

5 MR. SMOLEN: Yeah, I'm going to
6 object to the form. I don't know what type of
7 emergency we're talking about.

8 MR. MILLER: Okay.

9 Q (By Mr. Miller) If you thought there
10 was an emergent situation that required
11 emergency care --

12 MR. SMOLEN: Objection.

13 Q (By Mr. Miller) -- what would you have
14 done?

15 A I would have contacted 911.

16 Q Okay. Did any jail staff at any point
17 ever tell you, I believe this man is
18 experiencing an emergency?

19 A No.

20 Q Did any jail staff at any point say this
21 man needs to go to the hospital immediately?

22 A No.

23 Q Did you ever tell any jail staff this
24 man needs to go to the hospital immediately?

25 A No.

1 Q Did any -- did you ever suggest any
2 doubt or issues with his medical care to any
3 jail staff at any point?

4 A No.

5 Q Are you aware of any reason why the jail
6 staff would have thought that you were not
7 providing proper medical care to Mr. Buchanan?

8 MR. SMOLEN: Object to the form.

9 THE WITNESS: No.

10 Q (By Mr. Miller) There is one time on
11 the morning of the 13th that it's not documented
12 he received his Naproxen, correct?

13 A (Moving head up and down)

14 Q Does that mean with certainty he didn't
15 get Naproxen on that day or does it mean it
16 wasn't done?

17 MR. SMOLEN: Objection to the form.

18 THE WITNESS: Not with certainty
19 that he did not get it. I don't -- I don't know
20 whether he did or he didn't.

21 Q (By Mr. Miller) Fair enough. Do you
22 have any knowledge one way or the other about
23 whether his lack of receiving Naproxen on the
24 morning of the 13th affected anything later in
25 terms of his care?

1 A No.

2 Q Okay. Was there ever a time when you
3 were working at the Muskogee County Jail that an
4 inmate expressed concerns about their medical
5 care or -- or their medical situation and you
6 just said, I don't care; I'm going to blow you
7 off; you're not getting care?

8 MR. SMOLEN: Object to the form.

9 THE WITNESS: No.

10 Q (By Mr. Miller) Is that something that
11 you would ever do?

12 A No.

13 MR. SMOLEN: Object to the form.

14 Q (By Mr. Miller) If they said they were
15 in serious pain, would you always take that
16 seriously and listen to them?

17 A Yes.

18 Q If you look at -- I don't recall which
19 exhibit it is exactly, but it's the Muskogee
20 County Detention Center exhibit on Page DDR #2,
21 054. We're almost done. This is the Healthcare
22 Administration Policy, and the main policy under
23 15-1.4 is the policy of the Muskogee County
24 Detention Center to provide adequate healthcare
25 services, including complete emergency medical,

1 dental, and mental healthcare to all inmates in
2 the jail regardless of their financial status
3 and relying when necessary on community
4 healthcare resources. If someone has an
5 emergency situation and they are not provided
6 emergency care, do you believe that would be a
7 violation of the policy --

8 MR. YOUNG: I'm going to object to
9 the form on that.

10 Q (By Mr. Miller) To not receive -- to
11 not receive medical care during an emergency
12 situation, that would be a violation of Muskogee
13 County's policy, correct?

14 A Yes, that would be a violation if they
15 did not receive care.

16 Q If it was an emergency situation?

17 A Correct.

18 Q It's a policy to provide adequate
19 healthcare services. If they didn't receive
20 healthcare services, that would be a violation
21 of the policy, correct?

22 A Correct.

23 Q Go to DDR #2, 62 -- 2, 062, 15-3.4, the
24 policy. It says: The policy of the Muskogee
25 County Detention Center to provide inmates with

1 access to medical and healthcare that meet
2 standards. If they didn't provide inmates with
3 access to medical and healthcare to meet
4 standards, that would be a violation of the
5 policy, right?

6 A Correct.

7 Q On the morning of the 14th, did you know
8 that Mr. Buchanan had a serious medical
9 condition?

10 A No.

11 Q If you believe that it was an emergency
12 situation that required emergency care, what
13 would you have done?

14 A I would have called 911.

15 Q And do you have any reason to think that
16 anyone who worked for the jail knew any more
17 than you did --

18 MR. SMOLEN: Object to the form.

19 Q (By Mr. Miller) -- about his situation?

20 A No.

21 MR. MILLER: That's all.

22 MR. YOUNG: Katie, I've got a few
23 questions.

24 CROSS-EXAMINATION

25 BY MR. YOUNG: